

696

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARBANKS TRUCK SERVICE, INC.
d/b/a BEAR MOUNTAIN TRAVEL STOP,
MAHWAH FUEL STOP, GERALD F.
KRACHEY d/b/a/ KRACHEY'S BP
SOUTH, WALT WHITMAN TRUCK STOP,
INC., on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

COMDATA NETWORK, INC. d/b/a
COMDATA CORPORATION, CERIDIAN
CORPORATION, TRAVELCENTERS OF
AMERICA LLC, TA OPERATING LLC,
TRAVELCENTERS OF AMERICA
HOLDING COMPANY LLC, PETRO
STOPPING CENTERS, L.P., PILOT
TRAVEL CENTERS LLC, PILOT
CORPORATION, and LOVE'S TRAVEL
STOPS & COUNTRY STORES, INC.,

Defendants.

Civil Action No. 07-1078-JKG

Consolidated Case

FILED

JAN 30 2014

MICHAEL E. KUNZ, Clerk
By VM Dep. Clerk

STIPULATION AND ORDER

WHEREAS, Plaintiffs Marchbanks Truck Service, Inc. d/b/a Bear Mountain Travel Stop, Mahwah Fuel Stop,¹ Gerald F. Krachey d/b/a/ Krachey's BP South, and Walt Whitman Truck Stop, Inc. (collectively, "Plaintiffs"), on the one hand, and (a) Pilot Travel Centers LLC and Pilot Corporation (the "Pilot Defendants") and (b) TravelCenters of America, TA Operating LLC and

¹ Mahwah Fuel Stop has filed a motion to dismiss its case with prejudice (Dkt. No. 544), which currently is pending before the Court.

Petro Stopping Centers (the "TA Defendants"), on the other, have entered into a memorandum of understanding to settle the above-captioned action (the "TA-Pilot Settlement");

WHEREAS, pursuant to the TA-Pilot Settlement, Plaintiffs, the TA Defendants and the Pilot Defendants have agreed not to oppose the certification of a class for settlement purposes only;

WHEREAS, Plaintiffs have also entered into memoranda of understanding with defendants, Comdata Network, Inc. n/k/a Comdata Inc. ("Comdata"), Ceridian Corporation n/k/a Ceridian LLC ("Ceridian"), and Love's Travel Stops & Country Stores, Inc. ("Love's") (collectively with the TA and Pilot Defendants, the "Defendants");

WHEREAS, pursuant to stipulation and proposed order transmitted to the Court on January 8, 2014, Plaintiffs, Comdata and Ceridian withdrew certain pending motions, related submissions, opposition briefs and documents without prejudice to the parties' rights to reassert such submissions in the event the settlement does not become final, which was entered by the Court on or about January 19, 2014;

WHEREAS, pursuant to stipulation and proposed order transmitted to the Court on January 10, 2014, Plaintiffs and Love's withdrew certain pending motions, related submissions, opposition briefs and documents without prejudice to the parties' rights to reassert such submissions in the event the settlement does not become final, which was entered by the Court on or about January 19, 2014;

WHEREAS, Plaintiffs and the Defendants wish to withdraw pending motions, related submissions, opposition briefs and documents without prejudice to the parties' rights to reassert such submissions in the event the settlement does not become final, and subject to certain conditions set forth in this Stipulation;

WHEREAS, Plaintiffs and Defendants continue to negotiate final settlement agreement(s) for submission to the Court in conjunction with a motion for preliminary approval of the settlements;

WHEREAS, numerous deadlines established by the Court's Scheduling Orders (Dkts. 530, 543, 622), including class certification hearing scheduled for January 28-30, 2014 and the deadline March 3, 2014 deadline for dispositive motions are approaching;

NOW THEREFORE, to provide the parties with sufficient time to finalize a settlement agreement or agreements and submit a motion for preliminary approval, Plaintiffs, Comdata, Ceridian, the TA Defendants, the Pilot Defendants and Love's hereby stipulate and agree that:

1. Plaintiffs withdraw their request to certify a litigation class as to the TA and Pilot Defendants, without prejudice to renewing the request in the event the settlement does not become final. Accordingly, in light of Plaintiffs' previous withdrawal of their request to certify a litigation class as to Comdata, Ceridian and Love's, Plaintiffs' motion for class certification (Dkts. 552, 553, 554, filed June 7, 2013) and Reply in Support (Dkts. 670-673) are hereby withdrawn without prejudice.
2. The TA Defendants' Response in Opposition to Plaintiffs' Motion for Class Certification (Dkts. 628 and 632, filed September 27, 2013) is hereby withdrawn without prejudice.
3. The Pilot Defendants' Motion to Exclude Testimony of Experts (Dkt. 584 filed Aug. 30, 2013) and Reply in Support (Dkt. 637, filed October 4, 2013) are hereby withdrawn without prejudice.

4. Plaintiffs' Response in Opposition to the Pilot Defendants' Motion to Exclude Testimony of Experts (Dkt. 613, filed Sept. 20, 2013) is hereby withdrawn without prejudice.

5. Defendants' Letter Motion to Compel Mahwah to Respond to All Pending Discovery, dated April 15, 2013, and Reply in Support, dated May 7, 2013, is hereby withdrawn without prejudice.

6. The TA Defendants' Joinder in the Motions to Exclude Opinions and Testimony of Plaintiffs' Experts (Dkt. 592, filed Aug. 30, 2013) is hereby withdrawn without prejudice.

7. The Pilot Defendants' Notice of Joinder in Defendant Comdata's Motions to Exclude Expert Testimony and in Defendant Love's Motion to Exclude Expert Testimony (Dkt. 591, filed August 30, 2013) is hereby withdrawn without prejudice.

8. Plaintiffs' Opposition to Defendants' Letter Motion to Compel Mahwah to Respond to All Pending Discovery, dated April 29, 2013, is hereby withdrawn without prejudice.

9. Defendants' Letter Motion to Compel Plaintiffs to Provide Complete Answers to Interrogatory No. 3 in Comdata's Fourth Set of Interrogatories, dated May 24, 2013 and Reply in Support thereof, dated June 17, 2013, are hereby withdrawn without prejudice.

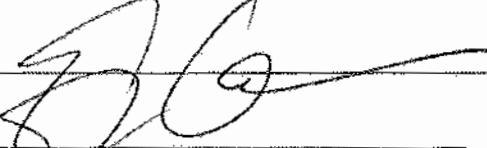
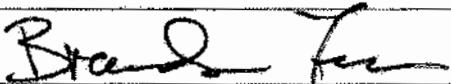
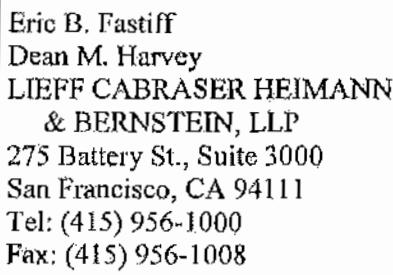
10. Plaintiffs' Opposition to Defendants' Letter Motion to Compel Plaintiffs to Provide Complete Answers to Interrogatory No. 3 in Comdata's Fourth Set of Interrogatories, dated June 14, 2013, is hereby withdrawn without prejudice.

11. The withdrawal of the motions and other documents described in this Stipulation is without prejudice to the rights of the parties to this Stipulation to refile those motions

and submissions or to otherwise reassert the positions set forth in those motions and submissions if the settlements do not proceed to and/or receive preliminary or final approval from the Court.

12. Because Plaintiffs' Motion for Class Certification for litigation purposes has been withdrawn and the parties are working towards finalizing a settlement agreement or agreements by the Court's February 28, 2014 deadline for moving for preliminary approval, subject to approval by the Court, the parties agree that all deadlines, including the deadlines established by the Court's Scheduling Orders (Dkts. 530, 539, 540, 543, 622), including the class certification hearing scheduled for January 28-30, 2014, the March 3, 2014 deadline for dispositive motions, the May 30, 2014 deadline for motions in *limine*, the June 9, 2014 summary judgment argument and the August 4, 2014 trial date shall be vacated and, in the event that any settlement does not become final with regard to any Defendant(s), the Court shall enter a new scheduling order at the appropriate time.



 Eric L. Cramer Andrew C. Curley BERGER & MONTAGUE, P.C. 1622 Locust Street Philadelphia, PA 19103-6305	 J. Gordon Cooney, Jr. Steven A. Reed R. Brendan Fee MORGAN LEWIS & BOCKIUS LLP 1701 Market Street, 51st Floor Philadelphia, PA 19103-2921
 Eric B. Fastiff Dean M. Harvey LIEFF CABRASER HEIMANN & BERNSTEIN, LLP 275 Battery St., Suite 3000 San Francisco, CA 94111 Tel: (415) 956-1000 Fax: (415) 956-1008	Counsel for Defendant <i>Comdata Network, Inc.</i>

Stephen R. Neuwirth
Dale H. Oliver
QUINN EMANUEL URQUHART
& SULLIVAN, LLP
51 Madison Ave., 22nd Floor
New York, NY 10010
Tel: (212) 849-7000
Fax: (212) 849-7100
Co-Lead Class Counsel

Carolyn P. Short
Carolyn P. Short
Shannon E. McClure
Brooke N. Wallace
REED SMITH LLP
2500 One Liberty Place
1650 Market Street
Philadelphia, PA 19103-7301

Counsel for Defendant
Ceridian Corporation

Jane E. Willis (*pro hac vice*)
Daniel J. Bennett (*pro hac vice*)
Matthew L. McGinnis (*pro hac vice*)
ROPES & GRAY LLP
800 Boylston Street
Boston, MA 02199

Counsel for Defendants
TravelCenters of America LLC, TravelCenters of America Holding Company LLC, TA Operating LLC, and Petro Stopping Centers, L.P.

John H. Bogart (*pro hac vice*)
TELOS VG, PLLC
299 South Main Street, Suite 1300
Salt Lake City, Utah 84111

Counsel for Defendants
Pilot Travel Centers LLC and Pilot Corporation

Mack J. Morgan, III (*pro hac vice*)
CROWE & DUNLEVY, P.C.
20 N. Broadway Ave., Suite 1800
Oklahoma City, OK 73102

Stephen R. Neuwirth
Dale H. Oliver
QUINN EMANUEL URQUHART
& SULLIVAN, LLP
51 Madison Ave., 22nd Floor
New York, NY 10010
Tel: (212) 849-7000
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Carolyn P. Short
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1650 Market Street
Philadelphia, PA 19103-7301

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Daniel J. Bennett (*pro hac vice*)
Matthew L. McGinnis (*pro hac vice*)
ROPES & GRAY LLP
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Boston, MA 02199

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Salt Lake City, Utah 84111

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CROWE & DUNLEVY, P.C.
20 N. Broadway Ave., Suite 1800
Oklahoma City, OK 73102

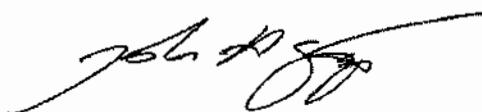
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& SULLIVAN, LLP
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New York, NY 10010
Tel: (212) 849-7000
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Carolyn P. Short
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REED SMITH LLP
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1650 Market Street
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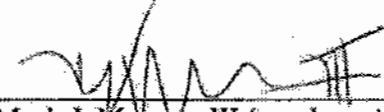
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John H. Bogart (*pro hac vice*)
TELOS VG, PLLC
299 South Main Street, Suite 1300
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Counsel for Defendants
Pilot Travel Centers LLC and Pilot Corporation

Mack J. Morgan, III (*pro hac vice*)
CROWE & DUNLEVY, P.C.
20 N. Broadway Ave., Suite 1800
Oklahoma City, OK 73102

	 Mack J. Morgan, III (<i>pro hac vice</i>) CROWE & DUNLEVY, P.C. 20 N. Broadway Ave., Suite 1800 Oklahoma City, OK 73102 Counsel for Defendant <i>Love's Travel Stops & Country Stores, Inc.</i>
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SO ORDERED:


Honorable James Knoll Gardner, U.S.D.I.

January 29, 2014